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February 2, 2005

Honorable Marianne B. Bowler
Chief United States Magistrate Judge
U.S. District Court
For the District of Massachusetts
One Courthouse Way
Boston, MA 02210

Re: Jalbert Leasing, Inc., *et al.* vs. Massachusetts Port Authority
Civil Action No. 04-10486-RCL

Dear Judge Bower:

We are counsel for plaintiffs in this matter. This case raises the issue of the extent of the Federal preemption of state law under 49 U.S.C. §14505. The matter is now under advisement following oral argument before you on September 13, 2004 on the parties' cross Motions for Summary Judgment.

In their brief and at argument, plaintiffs argued that in light of the lack of cases interpreting §14505, the Court should rely to some extent on cases interpreting a related statute, 49 U.S.C. §14501.


Counsel has recently become aware of two recent (both rendered December 21, 2004) Federal decisions interpreting 49 U.S.C. §14501, namely *Black Car Assistance Corporation v. New Jersey*, 2004 WL 3059442 (D.N.J.) and *VRC, LLC v. City of Dallas*, 2004 WL 2958385 (N.D.Tex.). The former case found §14501 preempted an effort by New Jersey to impose economic regulation on motor carriers, the latter found §14501 did not preempt local tow truck regulation, by reason of the safety intent of the City's Ordinance. (MASSPORT here did not argue that its fee in this case was imposed for safety purposes.)

Counsel wishes to call these very recent, relevant decisions to your attention.

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If the Court or MASSPORT counsel do not have access to these decisions, plaintiffs' counsel will promptly provide copies of them upon request.

Respectfully,



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